

U.S. Application No. 09/900,224, filed July 6, 2001
Attorney Docket No. 17453US02
Response dated July 3, 2008
In Response to Office Action mailed April 4, 2008

REMARKS

Claims 1-18 are pending. Claims 1-3, 7 and 11-18 are rejected. Claims 4, 5 and 8-10 are merely objected to.

Applicant gratefully acknowledges the indication by the Examiner that claims 4, 5 and 8-10 recite patentable subject matter.

Claim 15 is objected to because the Examiner alleges that claim 15, a dependent claim, does not further limit the subject matter of a parent claim. Dependent claim 15 indirectly depends from independent claim 13.

In the Office Action, the Examiner alleges that independent claim 13 recites, in part, “a control signal comprising a key index”. This is correct.

In the Office Action, the Examiner alleges that dependent claim 15 recites, in part, “the control signal comprises the key index”. This is NOT correct.

Dependent claim 15 recites “**wherein the decrypted or inversely transformed portion of the control signal comprises the key index**”.

In other words, dependent claim 15 recites “wherein the decrypted or inversely transformed portion ... comprises the key index”.

So claim 13 recites, in part, a control signal comprising a key index.

On the other hand, claim 15 recites the decrypted or inversely transformed portion comprises the key index.

It appears that claim 15 further limits the subject matter.

In view of at least the above, it is respectfully requested that the Examiner withdrawn the objection with respect to claim 15.

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Claims 1-3, 7 and 11-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,742,116 B1 ("Matsui").

It is respectfully submitted that the Examiner incorrectly applied the law relating to anticipation under 35 U.S.C. § 102(e).

With respect to claims 2, 3, 11, 12 and 14-18, the Office Action states that "**As per Claims 2-3, 11 - 12 and 14 - 18, claims are rejected by virtue of their dependence on the rejected parent claims.**"

This is an INCORRECT application of the law relating to anticipation under 35 U.S.C. § 102(e).

Since the error lies with the USPTO, the USPTO should mail a subsequent Non-Final Office Action fully addressing at least claims 2, 3, 11, 12 and 14-18. The burden of presenting a *prima facie* case should lie with the USPTO and not with Applicant.

As the Examiner noted with respect to the objection of claim 15, a dependent claim further limits the subject matter of an independent claim.

As the Examiner is keenly well aware, even if a document such as Matsui allegedly anticipates an independent claim, such a document *will not necessarily* anticipate the dependent claims.

Some of the dependent claims might recite, for example, elements that are not described in Matsui.

It is therefore incorrect to reject claims 2, 3, 11, 12 and 14-18 merely "**by virtue of their dependence on the rejected parent claims**". Such a statement has no support under 35 U.S.C.

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§ 102(e).

Applicant respectfully submits that it is inherently unfair for Applicant to have to respond to the rejection of claims 1-3, 7 and 11-18 when the Examiner has yet to fully delineate the rejection of all of the allegedly rejected claims.

Before responding, Applicant has the right to be able to analyze the Examiner's best arguments and evidence with respect to each and every element of each and every pending claim.

Applicant should not have to respond in a piece-meal fashion, but should be allowed to respond to the Examiner's comprehensive arguments and evidence.

For at least the above reasons, Applicant respectfully submits that the Examiner has failed to properly address the rejection of all claims and, in particular, claims 2, 3, 11, 12 and 14-18.

Applicant believes Applicant is entitled to see the Examiner's full *prima facie* case before responding in full.

It is therefore respectfully requested that, in a subsequent Non-Final Office Action, the Examiner provide Applicant with the Examiner's comprehensive case with respect to all rejected pending claims and, in particular, claims 2, 3, 11, 12 and 14-18.

Applicant does not necessarily agree or disagree with the Examiner's characterization of the documents made of record, either alone or in combination, or the Examiner's characterization of recited claim elements. Furthermore, Applicant respectfully reserves the right to argue the characterization of the documents of record, either alone or in combination, to argue what is allegedly well known, allegedly obvious or allegedly disclosed, or the characterization of the

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recited claim elements should that need arise in the future.

With respect to the present application, Applicant hereby rescinds any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the present application is in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: July 3, 2008

Respectfully submitted,

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